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Board of County Commissioners  
Valley County Board of Commissioners  
Valley County, Idaho

Via email - [cherrick@valleycountyid.gov](mailto:cherrick@valleycountyid.gov)

**Re: Appeal of Denial of Conditional Use Permit – Rocky Mountain Storage  
CW#: 24450.1**

Dear Chair and Commissioners:

On behalf of Rocky Mountain Storage (the “**Applicant**”), this letter constitutes a formal appeal of the decision of the Valley County Planning and Zoning Commission denying the Conditional Use Permit (“**CUP**”) for a commercial storage condominium facility located along State Highway 55. The application number assigned by Valley County to this application is SUB25-019.

This appeal is submitted pursuant to the Valley County Code (the “**Code**”) provisions governing appeals from adverse decisions of the Planning and Zoning Commission. VCC § 9-5H-12. The Applicant timely files this written appeal and sets forth with specificity the grounds upon which the denial should be reversed. The Applicant respectfully requests that the Board conduct its de novo review, reverse the denial, and approve the CUP subject to reasonable and uniformly applied conditions.

### **I. Standard of Review Under Valley County Code**

Under the Valley County Code:

- An aggrieved applicant may appeal a final decision of the Planning and Zoning Commission to the Board of County Commissioners;
- The appeal must state the specific grounds upon which the decision is alleged to be erroneous;
- The Board reviews the record, applicable code provisions, and evidence, and may affirm, reverse, or modify the decision; and

- The Board's decision must be based upon adopted standards and supported by substantial evidence in the record.

The denial in this matter was not supported by substantial evidence demonstrating failure to meet CUP criteria and relied, in material part, on speculation or standards not grounded in the adopted Code.

## **II. Scenic Byway, Building Orientation, and View Corridor Concerns**

The Commission cited concerns regarding:

- Visibility from the scenic byway;
- Building orientation parallel to Highway 55; and
- The alleged failure to "break up" structures to preserve mountain views.

The Valley County Code requires that a CUP not create undue adverse impacts and that it be compatible with surrounding uses. The Code does not mandate preservation of private view corridors across private property absent specific adopted design criteria.

The record reflects:

- The site lies within a developed highway corridor that already includes commercial uses, including a storage facility directly across the highway, State Highway 55.
- The proposed use is low-intensity, with no retail component and minimal traffic.
- Landscaping and façade treatments, if desired, can be addressed through conditions.

Aesthetic preference regarding building orientation does not constitute substantial evidence of noncompliance with CUP standards. If additional visual mitigation is desired, conditions—not denial—are the appropriate tool under the Code.

The proposed storage condominium facility, with a maximum height of 18 feet at the eve of the building and set back 100 feet from the State Highway Scenic Byway in Valley County, will not adversely impact the visual integrity of the scenic byway. The building's design and strategic setback ensure that it remains unobtrusive within the landscape, allowing for ample space for landscaping that will soften its appearance. Additionally, the facility will not obstruct views of the surrounding mountains, preserving the natural beauty and expansive vistas that are characteristic of this scenic route. The project will be thoughtfully integrated into the environment, maintaining the aesthetic value of the byway while meeting functional needs.

### **III. Traffic Analysis and Reliance on ITD Determination**

The Commission also cited the absence of a traffic analysis submitted directly to County staff and the Applicant's reliance on the determination of the Idaho Transportation Department ("ITD") that no additional turn lanes or mitigation were required.

The record demonstrates:

- A Traffic Impact Study was commissioned;
- ITD reviewed the proposal;
- The project consolidates three existing access points into a single controlled access, improving safety; and
- ITD confirmed that no additional mitigation was required.

ITD has statutory jurisdiction over State Highway 55. While the County may consider traffic impacts, it may not disregard the determination of the agency with authority over highway safety and substitute unsupported concerns. The Commission erred by completely disregarding the recommendations from ITD and substituted its unsubstantiated opinion on the traffic impacts.

There is no substantial evidence demonstrating unsafe traffic impacts.

### **IV. Environmental Impacts and Stormwater Management**

The Commission further determined that the proposed use would cause adverse environmental impacts based on a belief that stormwater would not be contained on-site.

The record does not support that conclusion.

A licensed professional engineer designed the buildings and site improvements specifically to retain and manage all stormwater on-site. The stormwater system was engineered to comply with applicable drainage standards and to prevent off-site discharge or adverse impacts to adjoining properties.

No competing expert testimony or engineering analysis in the record contradicts the professional design submitted by the Applicant.

Under Idaho land use law and Valley County Code, findings of adverse impact must be supported by substantial evidence. Lay speculation regarding stormwater performance cannot outweigh unrefuted engineering design evidence in the record.

If the Board determines additional assurance is warranted, it may impose reasonable conditions requiring final engineered drainage plans, certification, or inspection approval prior to

occupancy. However, denial based on a generalized belief—unsupported by technical evidence—that stormwater would not be contained is not supported by substantial evidence.

## **V. Initial Characterization of Use**

The Commission expressed concern that the Applicant initially described the units as personal storage rather than commercial.

The record shows:

- No commercial operations are currently occurring on site;
- The Applicant voluntarily sought a CUP upon determining commercial operation was appropriate; and
- The current application squarely seeks approval for commercial storage use.

The relevant inquiry is whether the proposed commercial use meets CUP criteria. The Applicant's decision to seek proper authorization reflects good faith compliance.

The Planning and Zoning Commission had a duty to evaluate this Conditional Use Permit application based solely on the standards set forth in the Valley County Code and the evidence presented in the record. Any alleged prior unpermitted or unlawful use of the property is a separate enforcement matter and cannot lawfully serve as a basis to deny a land use application that otherwise satisfies the applicable criteria. Idaho land use decisions must be grounded in adopted standards and supported by substantial evidence relevant to those standards. Past nonconforming or unpermitted activity does not alter the zoning classification of the property, does not change the approval criteria, and cannot be used as a punitive factor in the discretionary review of a current application.

Moreover, an alleged prior illegal use cannot serve as legal precedent or justification for denial. An unlawful use creates no vested right, confers no entitlement, and establishes no regulatory baseline against which a new application may be judged. Nor may it be used to impose heightened scrutiny or additional requirements not contained in the Code. The proper remedy for any past violation lies in enforcement proceedings—not in the denial of a compliant application. The Commission's obligation was to determine whether the proposed commercial storage use meets the CUP standards as applied to the property today, independent of any prior use history. The Commissioners' focus on the historical use of the subject property was misplaced and violates Idaho law and the private property rights of the Applicant.

## **VI. Compliance with CUP Criteria**

The record supports approval under each applicable CUP standard:

- **Compatibility:** Staff's compatibility analysis reflected a strongly favorable score. The Commissioners failed to prepare their own compatibility matrixes. Therefore, based on the fact that the Administrator provided the Commissioners with a rating that supported approval of the application, the Commissioners erred by not approving the application. See VCC § 9-5H-5.
- **Property Values:** Productive commercial use increases assessed value and supports the tax base.
- **Environmental Impacts:** Engineered stormwater retention, minimal water demand, and absence of hazardous materials demonstrate no undue adverse environmental impact.
  - The commissioners erroneously found that there would be adverse impacts on the surrounding properties due to stormwater run-off.
  - Commissioners are not engineers.
  - No comments from the County engineer on the application or any concerns with the stormwater mitigation plan.
  - Stormwater on-site retention is better addressed in a condition of approval as opposed to denial of the application.
- **Traffic and Services:** ITD confirmed no additional mitigation is required.
- **Fire Protection:** An on-site pond with two dry hydrants enhances safety. The Applicant conferred with and met with the fire department and confirmed that the water supply for firefighting is acceptable to the fire department.
- **Comprehensive Plan Consistency:** The project supports corridor-based economic activity with minimal service demands.

Any residual concerns are capable of mitigation through reasonable conditions.

The Commission referenced generalized language in the Valley County Comprehensive Plan directing the County to "protect" or "preserve" the scenic byway corridor. While the Comprehensive Plan provides important policy guidance, it does not itself create independent regulatory standards capable of overriding the specific approval criteria set forth in the Valley County Code for conditional use permits.

Under Idaho's Local Land Use Planning Act, comprehensive plans are policy documents intended to guide future legislative action and ordinance adoption. The enforceable standards applicable to a particular land use application are those codified in the County's zoning ordinance. When the County has adopted specific CUP criteria governing compatibility, impacts, and mitigation, those criteria control the decision-making process.

Generalized policy language—such as encouraging scenic preservation—cannot lawfully be used as a free-standing basis for denial where the applicant satisfies the specific, adopted criteria in the zoning code. Doing so would effectively substitute aspirational policy statements for binding regulatory standards and would deprive applicants of predictable, objective review. Courts consistently hold that land use decisions must be based on clear, ascertainable standards rather

than broad, subjective policy goals. *See, e.g., Urrutia v. Blaine Cty.*, 134 Idaho 353, 357-58, 2 P.3d 738, 742-43 (2000).

If the County desires more restrictive scenic corridor standards—such as mandatory building orientation, view corridor preservation, or enhanced design controls, those requirements must be adopted through ordinance. Until codified, generalized comprehensive plan language cannot be applied in a manner that creates new approval criteria or defeats an application that otherwise complies with the Valley County Code.

Accordingly, because the proposed storage facility meets the adopted CUP standards, generalized comprehensive plan language concerning scenic protection cannot serve as an independent or overriding basis for denial.

## **VII. Consistent Application of Standards and Equal Protection Considerations**

The Applicant respectfully requests that the Board consider the importance of consistent application of County standards.

The Equal Protection Clause, as interpreted in *Village of Willow brook v. Olech*, 528 U.S. 562 (2000), recognizes that a property owner may raise a “class-of-one” claim where similarly situated applicants are treated differently without a rational basis.

There is an existing commercial storage facility directly across Highway 55 that is materially similar in use, scale, traffic generation, and environmental impact. That facility was not required to submit a traffic impact analysis and was not denied based on scenic orientation or aesthetic considerations. The denial of the application is a violation of the Applicant’s equal protection rights that are protected by the United States Constitution and the Idaho Constitution.

In addition, Idaho law prohibits arbitrary and capricious actions by zoning boards. *See Idaho Code § 67-6535*. Decisions on CUP applications must be based on express standards and criteria. In this case, the Commissioners failed to apply these standards consistently or to provide a reasoned explanation for differential treatment, rendering the denial arbitrary and capricious and violating § 67-6535. *See Veterans Park Neighborhood Ass'n, Inc. v. City of Boise*, 564 P.3d 350, 2025 WL 259177 (Idaho 2025)

Further, the Commission failed to provide a written reasoned statement before the Applicant was required to submit its instant appeal. Idaho Code § 67-6535 requires that the approval or denial of a CUP application be accompanied by a written, reasoned statement explaining the criteria and standards considered, the contested facts relied upon, and the rationale for the decision. The Valley County Planning and Zoning Commission failed to adequately explain why the CUP for the storage condominium was denied while a similar facility was approved. The Commission failed to adequately address the differences between these two storage facilities, at

least as of the date this appeal was submitted. If and when the required reasoned statement is provided to the Applicant, the Applicant must be allowed additional opportunity to address any such written decision from the Planning and Zoning Commission.

The Applicant does not challenge the County's discretion. However, where similarly situated projects are subject to materially different requirements, the County must articulate a legitimate, evidence-based distinction grounded in adopted standards.

The record does not identify such a distinction.

The Board's de novo review provides the opportunity to ensure uniform, principled, and legally defensible application of County regulations.

### **VIII. Request for Relief**

For the reasons set forth above, the Applicant respectfully requests that the Valley County Board of Commissioners:

1. Reverse the decision of the Planning and Zoning Commission;
2. Approve the Conditional Use Permit for Rocky Mountain Storage; and
3. Impose reasonable and uniformly applied conditions of approval as appropriate.

The record demonstrates compliance with CUP criteria. The denial was not supported by substantial evidence and relied on speculative environmental concerns and discretionary standards applied inconsistently.

Respectfully submitted,



Matthew C. Parks